

Are you operating outside of your realm of authority?
Here Are a Few Key Questions to Ask Yourself...

- Have you placed orders [or entered into discussions] with Contractor(s) without a valid contractual instrument in place?
- Have you directed any Contractors to do additional work in excess of the contract value? Or work beyond the period of performance?
- Have you authorized new work to the contract without notifying the Contracting Officer or having a modification in place?
- Have you directed the Contractor in any way that could change the terms and conditions of the contractual instrument or be deemed outside of the scope of work?

If you answered, “yes” to any of the questions then you may have entered into an unauthorized commitment.

If such an action has occurred the unauthorized commitment must go through a ratification process.



What is an Unauthorized Commitment?

An agreement that is not binding because the Government representative who made it lacked the authority to act on behalf of the Government. *Unauthorized commitments are subject to disciplinary action, and the individual committing the act can be held financially responsible.*

What is Ratification?

The act of approving an unauthorized commitment by a ratifying official who has the authority to do so. **Note:** *Requests for ratifications are not always approved.*

What is involved in the ratification process of an unauthorized commitment?

First, the person must notify the Contracting Officer that he/she believes an unauthorized commitment has occurred. After proper documentation is received in the Contracts Management Office (CMO), it is reviewed by the Contracting Officer, and then forwarded to the Office of General Counsel, and the Director, CMO, for further analysis. The Director, CMO, will make the final determination based on the guidance prescribed in FAR 1.602-3, and the recommendations received from the Contracting Officer and Legal. *The ratification process may be initiated provided the following conditions were met: FAR 1.602-3©*



(1) Supplies or services were provided and accepted by the Government...*the Government obtained the benefit*; (2) The resulting contract would have been proper if made by a Contracting Officer; (3) The Contracting Officer determines the price to be fair and reasonable; and (4) Funds were available at the time of the unauthorized commitment and when the commitment was ratified. Based upon an analysis of the findings the Contracting Officer recommends payment & legal counsel concurs with the recommendation.

Roles and Responsibilities:

Contracting Officers have authority to enter into, administer, or terminate contracts and make related determinations and findings. Contracting Officers may bind the Government only to the extent of the authority that has been delegated to them.

FAR 1.602-1

Contracting Officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships.

FAR 1.602-2

No contract shall be entered into unless The Contracting Officer ensures that all requirements of law, executive orders, regulations, and all other applicable procedures, including clearances and approvals have been met. FAR 1.602-1(b)

Contracting Officers:

Shall ensure that sufficient funds are available when entering into a contract. Shall ensure that all contractors receive impartial, fair, and equitable treatment.

(FAR 1.602-2)